

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

V.

PRADYUMNA KUMAR SAMAL,

**Defendant.**

NO. CR18-214JLR

## **GOVERNMENT'S SENTENCING MEMORANDUM**

FILED UNDER SEAL

The United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and Siddharth Velamoor and Michael Dion, Assistant United States Attorneys, files this Sentencing Memorandum. The Sentencing hearing in this case is scheduled for September 20, 2019 at 9:30 a.m.

As set out below, the Defendant has informed the Government that he intends to object to three of the Sentencing Guidelines enhancements applied by the Presentence Investigation Report (“PSR”). The Defendant nonetheless does not object to the Court resolving the disputed enhancements on the basis of facts referred to herein, including the transcripts, interview memoranda, emails, and other documents attached as exhibits hereto. The Government therefore does not expect to call any witnesses to testify at the Sentencing hearing.

## **INTRODUCTION**

The U.S. government grants work status and visas to a limited number of highly skilled foreign nationals under the H-1B program each year. As conceived, the H-1B program serves an important economic purpose by ensuring that the supply of workers with specialized skills meets U.S. employers' demand. In turn, as the program's popularity makes clear,<sup>1</sup> H-1B visas benefit employers, by allowing them to recruit and retain skilled employees who cannot easily switch jobs upon entry into the United States. Because of the program's narrow purpose and the risk that employers may misuse the program to exploit vulnerable foreign nationals, the H-1B process is strictly regulated by several Executive agencies, including USCIS, the Department of State, and the Department of Labor.

The Defendant, Pradyumna Kumar Samal, pleaded guilty to orchestrating the largest and most sophisticated H-1B scheme ever prosecuted in this District. He began the scheme while serving a probationary sentence for a prior federal misdemeanor. As set out below, Samal ran businesses that defrauded the government into issuing long-term H-1B work status and visas to hundreds of foreign-national employees. Samal’s companies then marketed those H-1B employees to corporate clients for short-term projects. Through his scheme, Samal obtained an advantage over his competitors, as he had a standing pool (or “bench”) of workers available immediately to meet the needs of his end-clients, without any of the delays or uncertainty associated with the H-1B application process. Samal and his subordinates took numerous steps to accomplish the scheme, which required hundreds of fraudulent documents, lies to U.S. immigration officials, and efforts to mislead Samal’s corporate clients.

24 Although Samal's goal was to gain an advantage over his competitors, his fraud

<sup>27</sup> <sup>28</sup> <sup>1</sup> See Exhibit K, M. Jordan, Visa Applications Pour In by Truckload Before Door Slams Shut, *New York Times*, April 3, 2017, available at <https://www.nytimes.com/2017/04/03/us/tech-visa-applications-h1b.html> (“Last year, the government received 236,000 applications in the first week before deciding it would accept no more. A computer randomly chooses the winners.”).

inevitably harmed hundreds of individuals. As Chief Magistrate Judge Tsuchida remarked at the detention hearing, Samal’s scheme generated “wreckage” all around him. The collateral damage from Samal’s scheme extended to scores of subordinates who he conscripted into service as his co-conspirators, hundreds of foreign-national employees who he exploited upon entry into the U.S., and corporate clients whose identities he stole in furtherance of the scheme. Samal also obstructed the investigative process, by destroying documents, lying to federal agents, and concealing forfeitable assets.

Samal has posed a serious financial danger for the better part of the last decade, and his conduct (including his post-arrest conduct) reveals his utter contempt for the rule of law. For the reasons set forth below, the Government respectfully recommends a 120-month term of imprisonment, a fine of \$100,000, and a 3-year term of supervised release. The Government's recommendation falls in the middle of the relevant Sentencing Guidelines range.

## BACKGROUND

Samal is the owner and Chief Executive Officer of two defunct Seattle-area companies named Divensi, Inc. (“Divensi”) and Azimetry, Inc. (“Azimetry”). He established Divensi and Azimetry in 2010 and 2011 respectively, after a criminal conviction caused him to dissolve his prior business. Specifically, in 2009, Samal pleaded guilty to a misdemeanor charge of Computer Intrusion, for directing an employee to disable a customer’s website, resulting in thousands of dollars of damage to the victim. *See Plea Agreement, United States v. Samal*, CR09-00005MAT, Dkt. 8. In that case, Samal admitted that he lied (and directed his employee to lie) to the Federal Bureau of Investigation. *See* Def.’s Sentencing Memo., *United States v. Samal*, CR09-00005, Dkt. 27, at 13:18-21 (admitting that he “panicked and dissembled. In addition, he instructed [his employee] to tell the [FBI] agent either that he knew nothing or not to say anything or words to that effect.”). During the detention hearing in this case, Chief Magistrate Judge Tsuchida pointed out that Samal’s conduct while serving his sentence of probation in the prior case was “problematic” and a “red flag.”

Indeed, as the Presentence Investigation Report (“PSR”) explains, Samal commenced the Mail Fraud scheme in this case while serving that prior probationary sentence. *See PSR ¶ 60.* He now awaits sentencing for that mail-fraud offense (Count One of the Second Superseding Information), as well as the separate offense of Failure to Pay Over Tax under 26 U.S.C. § 7202 (Count Two). The government concurs with the PSR’s factual statement regarding both offenses.

A. Mail Fraud

1. *Overview Of The Mail Fraud Scheme*

Samal’s mail-fraud conviction arises out of a multimillion-dollar scheme that included thousands of false statements to U.S. immigration authorities, the exploitation of hundreds of foreign nationals, and numerous efforts to obstruct justice. *See PSR ¶¶ 9-19, 27-32.* Samal has admitted that he generated more than \$1.5 million in profits from the scheme. *Id.* ¶ 37.

Specifically, Samal defrauded the U.S. Citizenship and Immigration Service (“USCIS”) and the State Department into granting H-1B work status and visas to hundreds of foreign-national employees. Plea Agreement, Dkt. 51, ¶ 10(a). Samal prepared and signed at least 250 H-1B petitions that claimed, falsely and under penalty of perjury, that the foreign-national employees named in the petitions had been earmarked for purported specialty-occupation projects, and that they would perform those projects at the petitioning company (i.e., Divensi’s or Azimetry’s) offices. *Id.*; *see also* PSR ¶ 11. The petitions characterized the purported projects as having been subcontracted to Divensi and Azimetry by the companies’ clients. *Id.* The petitions also claimed that the projects had durations that were equal to the maximum permissible duration for work status under the H-1B program. *Id.* In reliance on these materially false statements, USCIS granted H-1B work status to Samal’s foreign-national employees between 2012 and 2016, often for the maximum duration permitted by law. *Id.* In turn, the State Department issued H-1B visas to Samal’s employees, which entitled them to enter the United States. Plea Agreement ¶ 10(a).

1        In reality, the foreign nationals named in Samal's companies' H-1B petitions had  
 2 not been earmarked for any specialty-occupation project. *Id.* Samal intended to create a  
 3 standing pool of H-1B employees with long-term work status who could then be  
 4 marketed to large corporate clients for short-term off-site projects. *Id.* ¶ 13; *see also* Plea  
 5 Agreement ¶ 10(a).

6                  2. *The Purpose And Gains From The Mail Fraud Scheme*

7        Samal gained a substantial competitive advantage over other staffing companies as  
 8 a result of the scheme. *First*, the scheme enabled Samal to "bench" (in Samal's words)  
 9 foreign nationals both after they entered the U.S. and between their short-term project  
 10 assignments, because USCIS had granted them long-term work status in reliance on  
 11 Samal's false claims. *Id.* ¶¶ 13-14. While benched, the foreign nationals were pitched by  
 12 Samal's marketing team to large corporate clients for short-term, off-site, projects. *See*  
 13 *id.* *Second*, the scheme enabled Samal to pitch foreign nationals to end clients who  
 14 otherwise would not have interviewed or considered foreign nationals who did not  
 15 already have work status in the United States. *Id.* ¶ 14. *Third*, Samal's scheme enabled  
 16 him to use foreign nationals to fill non-specialty-occupation roles in his offices that  
 17 otherwise would have required more expensive U.S.-citizen employees. *Id.* ¶ 14. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22        Samal also exploited his H-1B employees. For instance, Samal forced H-1B  
 23 employees to submit phony sick and annual leave requests while they were on the  
 24 "bench," so that he would not need to pay them the salary to which they were entitled.  
 25 PSR ¶ 17. Samal also circumvented regulations that require employers to pay H-1B  
 26 employees prevailing wage, by claiming that the fictitious project assignments had  
 27 prevailing-wage levels that were lower than the actual end-client projects to which  
 28 Samal's H-1B employees eventually were assigned. *Id.* ¶ 16.

1 Finally, Samal forced H-1B employees to pay the filing fees associated with their  
 2 petitions, in contravention of DOL regulations that require employers to pay for those  
 3 fees. *Id.* ¶ 16. Samal styled these fee payments as purported “security deposits” in an  
 4 effort to doctor their actual purpose. *See id.* In fact, only a portion of the “deposit” was  
 5 refundable (such that Samal unlawfully used the non-refundable portion of the deposit to  
 6 pay for visa fees). *Id.*

7 The parties have stipulated that Samal gained \$1,625,532.84 from the scheme,  
 8 consisting of (a) the profits he earned from placing H-1B employees on client projects  
 9 and (b) the revenues he earned when he sold his H-1B operations in February 2018. *Id.*  
 10 ¶ 37. In addition to that stipulated gain, Samal also used his companies’ accounts as a  
 11 personal piggy bank, such as when he used approximately \$66,000 in H-1B employees’  
 12 “security deposits,” along with other funds from company bank accounts, to purchase  
 13 shares in a technology startup. *Id.* ¶ 18. When that startup was acquired, Samal obtained  
 14 the right to four annual distributions, beginning in 2018. *Id.* He received the first  
 15 distribution (of approximately \$400,000) in January 2018, and used that distribution to  
 16 capitalize Indian bank accounts, purchase consumer electronics, and buy flight tickets.<sup>2</sup>  
 17 *Id.* On September 1, 2019, the government learned that Samal received the second  
 18 distribution (of approximately \$41,120.91) on June 10, 2019. *See* Wire Transfer, Ex. B.

19 On August 2, 2019, less than two months after receiving the \$41,120.91  
 20 distribution, Samal told the Probation Office that his liquid assets were worth less than  
 21 \$300. *See* Def. Objections to PSR, Ex. C, at 6. In addition, at a date unknown to the  
 22 government, but which appears to have been within weeks of the \$41,120.91 distribution,  
 23 Samal told this Court that he “could no longer afford” the services of his financial  
 24 accountant. *See* Order, Dkt. 70, at 1:20.

25 \_\_\_\_\_  
 26 <sup>2</sup> As the government previously explained, Samal’s financial affidavit seeking Criminal Justice Act (“CJA”)  
 27 representation falsely claimed that he had “reinvested” that \$400,000 payment into his companies. *See* Response to  
 Mot. to Substitute Attorney, Dkt. 36. The financial affidavit contained other material misstatements and omissions.  
*See id.*

1                   3. *Samal's Use Of Stolen Identifications And Other False*  
 2                   *Statements In Furtherance Of The Scheme*

3                   USCIS requires petitioning employers to substantiate the statements they make in  
 4                   petitions. To satisfy that requirement, Samal and subordinates acting at his direction  
 5                   included forged and fraudulent materials in H-1B petitions, in order to substantiate the  
 6                   existence and duration of the so-called projects for which foreign-national employees had  
 7                   purportedly been earmarked. Plea Agreement ¶ 10(a). The forged and fraudulent  
 8                   materials included:

- 9                   • **Fictitious employment contracts** between Samal's companies and H-1B  
                  employees, which reflected fake job titles. PSR ¶ 12.
- 10                  • **Doctored H-1B employee resumes**, which made it appear as if Samal's  
                  foreign-national employees had specialty-occupation expertise and  
                  experience that they did not actually have. *Id.*
- 11                  • **Forged client letters** that purported to have been issued by two of the  
                  clients for whom the H-1B employees purportedly had been earmarked, and  
                  included digital signatures belonging to senior executives at those clients.  
                  Plea Agreement ¶ 10(a). The forged client letters typically included  
                  language "verify[ing]" that the client "will be using the services of" the H-  
                  1B employee named in Samal's companies' petition.<sup>3</sup> As explained in the  
                  section below regarding the relevant Sentencing Guidelines range, Samal  
                  both created some of the forged letters, and also applied forged digital  
                  signatures to other letters that his co-conspirators created. In his plea  
                  agreement, Samal's former Chief Operating Officer, Prasad Puvvala,  
                  admitted that he "prepared unsigned drafts" of forged client letters and then  
                  "asked SAMAL to affix signatures to those letters." Plea Agreement,  
                  *United States v. Puvvala*, CR019-19RAJ, ¶ 8.

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27                  28                  <sup>3</sup> The government previously exhibited an example of a forged end-client letter in its submission in support of pre-trial detention. See Ex. A to Mem. In Support of Detention, Dkt. 6-1.

1                   Samal's companies also used an outside petition preparer—a  
2 disbarred former immigration lawyer—to prepare forged client letters. As  
3 set out in her plea agreement, the outside preparer created forged letters and  
4 then asked Samal and Samal's former COO to affix forged signatures to  
5 them. Plea Agreement, *United States v. Tomaszewski*, CR-18-213JLR, ¶ 7.

6                   As set out below, the two clients whose identities Samal stole learned about the  
7 forged letters and confronted Samal in March 2015. *See below* at 10. Samal responded  
8 by disclaiming knowledge of the forged letters, blaming Puvvala for creating the forged  
9 letters without Samal's knowledge, and removing any references to those clients in the H-  
10 1B petitions that his companies filed in 2015 and 2016. *Id.* [REDACTED]

11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

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20

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22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

1        In addition to misleading USCIS, Samal also directed his subordinates to send  
 2 forged materials to U.S. consulates, and to coach foreign-national employees to lie to  
 3 consular officers to ensure that their stories were consistent with the false statements in  
 4 their petitions. See Plea Agreement ¶ 10(a); *see also* PSR ¶ 12. Specifically, in the event  
 5 USCIS grants H-1B status to a foreign-national employee who is not already in the U.S.,  
 6 the foreign-national employee must ordinarily obtain a corresponding visa at a U.S.  
 7 consulate in their country of residence—a matter that falls under the ambit of the State  
 8 Department. *Id.* In deciding whether to grant the requested visa, the State Department  
 9 typically interviews the employee at a consulate. *Id.*

10       As Puvvala admitted in his plea agreement, he “consulted with, and received  
 11 instruction from, SAMAL about the contents of these false statements [by H-1B  
 12 employees] to immigration officials.” *See Plea Agreement, United States v. Puvvala,*  
 13 CR19-019, Dkt. 6, at 9:8-10:2 (referring to emails in which Puvvala sought guidance  
 14 from Samal about false statements to U.S. consulate officers, including email in which  
 15 Puvvala reported to Samal about coaching an H-1B employee to lie to U.S. consular  
 16 officers). [REDACTED]

17 [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED]  
 20       Samal also deceived USCIS officers who conducted site visits to his companies’  
 21 offices. *See* PSR ¶ 28. USCIS agents occasionally conduct such site visits to verify that  
 22 H-1B employees are, indeed, working on the projects described in their petitions. *Id.* To  
 23 deceive these USCIS officers, Samal staged his offices (e.g., with fake workstations) in  
 24 advance of the site visits, thus making it appear as if the H-1B employees were working  
 25 at the companies’ offices (as the petitions claimed). *See id.* In reality, as explained  
 26 above, the H-1B employees were either benched without pay awaiting a potential project  
 27 assignment or had been assigned to an off-site short-term client project.  
 28

1                   4.     *Samal's Obstruction Of Justice*

2                   Samal has repeatedly obstructed justice in this case, both before and after his arrest  
 3 last year. *See* PSR ¶¶ 27-32. Specifically, in the spring of 2015, the two clients whose  
 4 identities Samal had stolen in the forged letters confronted him after each client received  
 5 initial inquiries from the State Department about a letter bearing each of their letterhead  
 6 and signatures. *See* Emails to Samal, Ex. F ("Pls advise on this his happened?"), Ex. G  
 7 (asking for an explanation about "the facts including the actions you took and how you  
 8 are ensuring that the Visa matter discussed does not happen again").

9                   In response, Samal and his then-Chief Financial Officer decided to blame Puvvala,  
 10 because Puvvala recently had left the company earlier that year. PSR ¶¶ 28-29; *see also*  
 11 Ex. H, Report of Interview of CFO, ¶ 64 ("It was decided to blame Prasad as he had left  
 12 the company.").<sup>5</sup> Thus, in an email to one of the clients (which the CFO helped draft),  
 13 Samal made multiple false claims, including that: (a) Puvvala "was completely in charge  
 14 of our immigration"; and (b) Samal "did not spend any time overseeing [Puvvala's]  
 15 management of our immigration." *See* Ex. G, at 1. As Samal has now admitted, and as  
 16 investigators later learned, Samal obviously knew about the forged and fraudulent  
 17 documents; indeed, he personally had created and directed Puvvala and other  
 18 subordinates to create them. *See* Plea Agreement ¶ 10(a).

19                   To make it appear as if he lacked knowledge of the falsehoods in his companies'  
 20 H-1B petitions, Samal destroyed incriminating documents in his companies' offices. *See*  
 21 PSR ¶ 30. Specifically, like other H-1B employers, Samal's companies preserved hard  
 22 copies of petitions at their offices, even after those petitions have been mailed to the  
 23 government. *Id.* Samal removed the fraudulent documents (e.g., the phony employment  
 24 contracts, the forged client letters) from his hard copy files, so that he could later claim  
 25 that Puvvala inserted those documents before filing (and without Samal's knowledge).

26  
 27                   <sup>5</sup> Samal's former Chief Financial Officer had a federal felony conviction for bank fraud at the time Samal hired him.  
 28 The government did not rely upon any statements by the CFO which were not otherwise corroborated by other  
 materials generated during the investigation.

1 As Samal's outside petition preparer explained in her plea agreement:

2 In or around the summer of 2015, the Defendant and two other employees of  
 3 SAMAL's companies removed documents from hardcopies of visa petitions, at  
 4 SAMAL's direction. Specifically, USCIS regulations require petitioning  
 5 companies, like Divensi and Azimetry, to preserve certain petition-related  
 6 materials. SAMAL directed the Defendant to remove materials from the petitions  
 7 that would assist the Government in its investigation into the false statements  
 8 made in those petitions. The Defendant removed the documents from the petitions  
 9 in a conference room in the companies' offices, along with two other employees.  
 10 SAMAL regularly checked into the progress of the spoliation of these documents  
 11 while that process was ongoing. When removing the documents, the Defendant  
 12 knew that the documents were material to the Government's investigation into  
 13 Divensi and Azimetry for the acts of visa fraud described above.

14 Plea Agreement, *United States v. Tomaszewski*, CR18-213JLR, ¶ 7.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] ¶

21 When interviewed by law-enforcement agents on May 31, 2017, Samal made  
 22 statements which showed that the document-destruction episode was part of his plan to  
 23 plead ignorance and blame Puvvala. PSR ¶ 31. Specifically, Samal falsely claimed that  
 24 he lacked knowledge about the forged letters because Puvvala had failed to "maintain[]"  
 25 hard copies of those documents in the companies' offices:

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28<sup>6</sup> While Samal was not successful in destroying all the incriminating documents, agents noticed missing documents in several hardcopy petitions when they searched Samal's companies' offices in September 2017. PSR ¶ 30.

1           Samal told [Reporting Agent] that it was only after Puvvala resigned that he  
 2 realized that the only documents Puvvala maintained for  
 3 Azimetry/Divensi's visa petitions were the I-129s, LCAs, and Cover  
 4 Letters. As such, Samal stated that ***he did not have a copy of the false***  
***[client] letter and he also does not know how many false [client] letters***  
***were ultimately submitted to DHS.***

5 Ex. I, Report of Interview, at 5 (emphasis added); *see also id.* at 8 ("[Reporting Agent]  
 6 asked Samal if he had ever seen the letter, to which he responded no and reiterated that  
 7 Divensi did not have many of the supporting documents for Divensi/Azimetry's H-1B  
 8 petitions ***since Puvvala did not scan them in and/or retain them*** during the period when  
 9 he (Puvvala) worked there.") (emphasis added); *id.* at 12 (noting that Samal falsely  
 10 suggested he had no prior knowledge of the forged end-client letters before the victim  
 11 clients confronted him in 2015).

12                 5.        *Samal's Trip to India And Dissipation Of Forfeitable Assets*

13           In February 2018, about one month after the government first approached his two-  
 14 conspirators (Puvvala and Tomaszewski), Samal sold the entirety of Divensi's and  
 15 Azimetry's H-1B operations to a Georgia company named Synapse Technologies LLC  
 16 ("Synapse"). PSR ¶ 32. He then flew to India where he coordinated the transfer of  
 17 hundreds of thousands of dollars out of U.S. bank accounts and into overseas bank  
 18 accounts. *Id.* On or about the day he landed in India, Samal immediately reached out to  
 19 Puvvala over the encrypted messaging application WhatsApp. *See Ex. J, Email from*  
 20 *Aoki to Velamoor, et al. (attachment)* ("Prasad PK here in India ! Let me know if I can  
 21 call you ?"). Puvvala, who had already admitted to his role in the offense, did not  
 22 respond to Samal's message. *Id.*

23           Samal engaged in other financial misconduct while in India, for which he now  
 24 faces potential civil liability and administrative sanctions. For instance, Synapse has sued  
 25 Samal in King County Superior Court, alleging that he locked Synapse out of a client  
 26 payment portal and thus misappropriated hundreds of thousands of dollars. *See Synapse*  
*Technologies, LLC v. Azimetry Inc., et al.*, King County Superior Court No. 18-2-20495.  
 27

1        In addition, the 401K retirement fund administrator used by Samal's companies  
 2 discovered that Samal's companies had failed to turn over employee 401K-plan  
 3 contributions for numerous employees. *See* PSR ¶ 26.<sup>7</sup> Although the inherent liquidity  
 4 of money makes it impossible to trace the exact disposition of these stolen 401K  
 5 contributions, it bears emphasis that Samal used his companies' bank accounts to make  
 6 luxury car payments, pay off his home mortgage, and make large financial transfers to his  
 7 bank accounts in India. *Id.* ¶ 21; *see also id.* ¶ 24.

8        Samal returned to the United States on August 28, 2018, and was arrested upon his  
 9 arrival at Seattle-Tacoma Airport.<sup>8</sup> He has been detained since his arrest. *See* Detention  
 10 Order, Dkt. 14; Minute Entry, Dkt. 61.

11        B. Failure to Pay Over Tax

12        Samal also pleaded guilty to one count of Failure to Pay Over Tax, in violation of  
 13 18 U.S.C. § 7206. Specifically, in his role as owner and CEO of Divensi, Azimetry, and  
 14 a third company named Divensi Technology, Inc., Samal employed various employees  
 15 and maintained authority over the companies' finances and other business-related  
 16 decisions. Plea Agreement ¶ 10(b). Samal was required by federal law to collect,  
 17 truthfully account for, and pay over payroll and employment taxes, including income and  
 18 Social Security and Medicare (FICA) withholdings, to the U.S. Department of Treasury,  
 19 Internal Revenue Service. *Id.*

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21       <sup>7</sup> It is the government's understanding that Samal is facing civil and administrative sanctions by the Department of  
 22 Labor for his misappropriation of 401K contributions. An aggravating factor may be that he engaged in similar  
 23 conduct in 2010 (while serving his term of probation for his earlier misdemeanor conviction). *See* Mot. to Modify  
 24 Conditions of Release, *United States v. Samal*, CR09-0005, at 5 (letter from defense counsel to Probation Officer)  
 ("These employees also complained that he collected 401(k) monies from them and did not remit them to  
 Dynatech.").

25       <sup>8</sup> The government respectfully disagrees with the Probation Office's statement that Samal "voluntarily return[ed] to  
 26 the United States to face these charges." Recommendation, at 4. Samal unsuccessfully made that very same claim  
 27 in seeking pre-trial release. *See* Opp. to Mot. for Detention, Dkt. 10. As the government explained in its written  
 28 submission, Samal returned to the United States without knowledge of the under-seal warrant for his arrest. Mem.  
 In Support of Detention, Dkt. 6. Indeed, Samal's behavior before and at the time of his arrest, including his  
 possession of digital devices loaded with incriminating information, are flatly inconsistent with his claim that he  
 expected to be arrested upon arrival in the United States.

In contravention of his obligations under federal law, and together with employees at his companies' offices, Samal willfully failed to pay over such taxes to the IRS. The chart below shows the financial quarters and dollar amounts associated with Samal's non-payment of taxes:

#	Company	Tax Return Period	Tax Return Filed Filed	Taxes Due to IRS	Taxes Paid to IRS	Unpaid Tax Balance
1	Azimetry	2nd Quarter 2017	10/09/2018	\$ 125,770	\$ (166)	\$ 125,604
2	Azimetry	3rd Quarter 2017	01/01/2018	\$ 120,875	\$ (22,930)	\$ 97,945
3	Azimetry	4th Quarter 2017	04/02/2018	\$ 114,225	\$ (40,091)	\$ 74,133
4	Azimetry	1st Quarter 2018	07/02/2018	\$ 52,413	\$ -	\$ 52,413
5	Azimetry	2nd Quarter 2018	10/08/2018	\$ 30,302	\$ -	\$ 30,302
6	Divensi	1st Quarter 2017	06/26/2017	\$ 176,432	\$ (56,936)	\$ 119,496
7	Divensi	2nd Quarter 2017	09/18/2017	\$ 219,690	\$ -	\$ 219,690
8	Divensi	3rd Quarter 2017	01/01/2018	\$ 185,695	\$ -	\$ 185,695
9	Divensi	4th Quarter 2017	03/26/2018	\$ 151,486	\$ (51,788)	\$ 99,699
10	Divensi	1st Quarter 2018	07/02/2018	\$ 81,930	\$ -	\$ 81,930
11	Divensi Tech	4th Quarter 2017	04/02/2018	\$ 73,424	\$ (40,465)	\$ 32,958
			<b>Totals</b>	<u>\$ 1,332,242</u>	<u>\$ (212,375)</u>	<u>\$1,119,867</u>

See PSR ¶ 20.

Samal has a history of engaging in this type of tax evasion, and has been cited on multiple prior occasions by the IRS, starting as early as 2012. Samal was permitted to resolve these earlier deficiencies through civil resolution with the IRS, but was warned that future non-payment could result in his criminal prosecution.

### **PENALTIES AND SENTENCING GUIDELINES CALCULATIONS**

#### A. Maximum Statutory Penalties

The maximum statutory penalties for Samal's two crimes are as follows:

	Mail Fraud	Failure to Pay Over Tax
<b>Maximum Imprisonment</b>	20 years	5 years
<b>Maximum Supervised Release</b>	3 years	3 years
<b>Maximum Fine</b>	\$250,000	\$250,000, together with the costs of prosecution

**B. Advisory Sentencing Guidelines Range**

The government concurs with the PSR's calculation of Samal's Sentencing Guidelines range. *See* PSR ¶ 36-60. As the Probation Office calculates, Samal's total offense level is 30,<sup>9</sup> and his Criminal History Category is II (3 points). *Id.* As a result, Samal's advisory Sentencing Guidelines range is: (1) a term of imprisonment of 108 to 135 months; (2) a fine of \$35,000 to \$350,000; and (3) a term of supervised release of 1 to 3 years.

Through counsel, Samal has informed the government that he objects to the PSR's application of the three enhancements addressed in the sub-sections below. As set out below, these objections are baseless.

**1. Enhancement For Sophisticated Means And/Or International Nexus (USSG § 2B1.1(b)(10))**

Section 2B1.1(b)(10) of the United States Sentencing Guidelines provides for a two-level enhancement if any one of three factors is present. Here, the two-level enhancement is applicable to the mail-fraud offense for two *independent* reasons: (a) a substantial part of Samal's mail-fraud scheme was committed from outside the United States; and (b) the offense otherwise involves sophisticated means and Samal intentionally engaged in or caused the conduct constituting sophisticated means. *See USSG § 2B1.1(b)(10)(B), (C).*

(a) International Nexus (USSG § 2B1.1(b)(10)(B))

Samal's mail-fraud scheme plainly was committed, in substantial part, from outside the United States. *See* PSR ¶ 37.

*First*, as explained above, Samal's employees coached H-1B employees to lie at their consular interviews in India. The interview was a prerequisite to obtain a visa from the State Department that permitted the employees' entry into the United States.

<sup>9</sup> Although the PSR does not give Samal a three-point reduction for acceptance of responsibility under USSG § 3E1.1, the Probation Officer informed counsel for the government that the Probation Office will recommend its application after receiving a letter from Samal in which he formally accepts responsibility for his conduct.

1       ***Second***, many of the fraudulent documents used by Samal’s companies were  
 2 created by prospective employees while those employees still lived in India. *Id.* As  
 3 Samal himself admitted when interviewed by law-enforcement agents, “Divensi’s office  
 4 in Bhubanesar, India” was “responsible for overseas recruitment of potential H-1B  
 5 workers.” Ex. I, Report of Interview, at 3. Indeed, *while they were still in India*, and  
 6 before Samal’s companies petitioned for their work status, foreign nationals completed  
 7 documents that were used to substantiate the false statements in H-1B petitions. Samal’s  
 8 human-resources team asked prospective H-1B employees based in India to sign and  
 9 return electronically the fraudulent employment agreements, with the understanding that  
 10 false information in the contract was “*for USCIS purpose only*.” *See, e.g.*, Ex. L  
 11 (reflecting email chain between prospective employee in India and Samal, in which  
 12 employee stated that he “signed the agreement which Prasad sent me for USCIS  
 13 purpose”); Ex. M (reflecting email chain in which Divensi recruiter instructed  
 14 prospective employee based in India to sign fraudulent contract and noting that  
 15 information in the contract “is only for the purpose of filing the LCA, will be revised  
 16 later on approval of H1B”); Ex. N (same). As explained above, these and other steps  
 17 completed by foreign nationals *before* they even entered the United States were essential  
 18 to the fraud and material to USCIS’ adjudication of Samal’s companies’ petitions.

19       ***Third***, [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]

24 [REDACTED] In his objections to the draft PSR, Samal  
 25 himself admitted that he gave H-1B workers the “option” to “return to India” while  
 26 benched, to the extent they chose not to submit to his requirement that they take sick and  
 27 annual leave while in the United States. *See* Ex. C, ¶ 9.  
 28

(b) Sophisticated Means (USSG § 2B1.1(b)(10)(C))

Samal's scheme also involved sophisticated means of his own design. As set out above, Samal's fraud scheme was extraordinarily complex and involved dozens of illegal acts by employees at virtually every level of Samal's organization.

In his objections to the draft PSR, Samal minimized his conduct as the mere submission of “forged signatures on official documents,” followed by their mailing to the government. Ex. C, ¶ 24. But that factual account is not consistent with the facts in the plea agreement and PSR. As explained above, Samal and others acting at his direction sent hundreds of fraudulent documents to separate federal agencies, used forged digital signatures, and coordinated activity between offices in India and the United States. *See* PSR ¶¶ 9-19, 38. Samal also churned H-1B employees through short-term projects for large technology clients, all the while concealing from those clients that the employees had arrived in the United States on fraudulent grounds. *See* Plea Agreement ¶ 10(a); PSR ¶ 9. Finally, Samal induced numerous subordinates to participate in the fraud, including recruiters who found prospective employees in India, human-resources staff who prepared fraudulent documents, and marketers who pitched H-1B employees to clients.

In sum, there are two separate, independent, bases for the application of a two-level enhancement under USSG § 2B1.1(b)(10).

**2. Enhancement For Using Means of Identification to Produce Five Or More Means of Identification (USSG § 2B1.1(b)(11)(C(ii))**

USSG 2B1.1(b)(11)(C)(ii) provides for a two-level enhancement where the offense involved “the possession of 5 or more means of identification that unlawfully were produced from, or obtained by the use of, another means of identification.” The guideline incorporates the definition of the phrase “means of identification” in 18 U.S.C. § 1028, the federal identity theft statute. *See* App. Note 1 to USSG § 2B1.1. That statute defines “means of identification” to include “any name . . . that may be used, alone or in conjunction with any other information, to identify a specific individual.” *See* 18 U.S.C. § 1028(d)(7). As the Ninth Circuit held in *United States v. Blixt*, “forging another’s

1 signature constitutes the use of that person's name and thus qualifies as a 'means of  
 2 identification' under 18 U.S.C. § 1028A." 548 F.3d 882, 887 (9th Cir. 2008).

3 Samal does not and cannot dispute that the scheme involved the use of forged  
 4 client signatures (a means of identification) to produce dozens of letters bearing those  
 5 same forged signatures (other means of identification). In his Plea Agreement, Samal  
 6 admitted that he and others "attached forged letters that appeared to have been issued and  
 7 signed by the Companies' clients to H-1B petitions." Plea Agreement ¶ 10(a); *see also*  
 8 Ex. C, ¶ 24 (acknowledging that offense involved submission of "forged signatures on  
 9 official documents"). His co-conspirators have referred to specific instances in which  
 10 Samal created and reviewed these forged client letters before they were sent to USCIS.  
 11 *See* Plea Agreement, *United States v. Puvvala*, CR19-019, Dkt. 6, ¶ 8 (noting that the  
 12 scheme involved dozens of forged letters, identifying three instances in which Samal  
 13 affixed forged signatures to letters, and identifying five other instances in which Samal  
 14 reviewed forged letters before submission to USCIS); Plea Agreement, *United States v.*  
 15 *Tomaszewski*, CR18-213, Dkt. 7, ¶ 7 (referring to Samal's participation in creation of  
 16 forged documents).

17 Rather than disputing the factual basis for this enhancement, Samal appears to rely  
 18 on a fundamentally incorrect reading of the law. Specifically, in his objections to the  
 19 draft PSR, Samal seemed to assert that only the *ultimate* objective of the offense conduct  
 20 can be considered, rather than the steps taken in pursuit of that objective. *See* Ex. C,  
 21 ¶ 25. Thus, under Samal's reasoning, even though the scheme involved the use of used  
 22 "fraudulent signatures" in H-1B petitions, *see id.*, the guideline still does not apply  
 23 because the ultimate objective of the scheme was to obtain H-1B work status. *Id.*

24 Samal's arguments lack any merit. The guideline does not require that the *goal* of  
 25 the scheme was to produce means of identification, but merely requires that the offense  
 26 "*involved*" their production. *See* USSG § 2B1.1(b)(11). Indeed, courts routinely and  
 27 sensibly apply the enhancement in cases where means of identification are produced in  
 28 furtherance of some other goal. *See, e.g., United States v. Sardariani*, 754 F.3d 1118,

1 1120 (9th Cir. 2014) (use of forged signatures to obtain loans); *United States v. Kleiner*,  
 2 765 F.3d 155, 157 (2d Cir. 2014) (use of driver's license to withdraw money).

3 In sum, Samal's novel argument is contradicted by the guideline's plain language,  
 4 and has no basis in the law. This offense plainly involved the use of a means of  
 5 identification to produce five or more means of identification.

6       3.     *Enhancement For Obstruction Of Justice (USSG § 3C1.1)*

7       Samal's objection to the PSR's two-level enhancement for obstruction of justice is  
 8 also meritless. USSG § 3C1.1 requires that: (a) "the defendant willfully obstructed or  
 9 impeded, or attempted to obstruct or impede, the administration of justice with respect to  
 10 the investigation, prosecution, or sentencing of the instant offense"; and (b) the  
 11 obstructive conduct related to" either "the defendant's offense of conviction and any  
 12 relevant conduct" or "a closely related offense." As the application note to that guideline  
 13 explains, "[o]bstructive conduct that occurred prior to the start of the investigation of the  
 14 instant offense of conviction may be covered by this guideline if the conduct was  
 15 purposefully calculated, and likely, to thwart the investigation or prosecution of the  
 16 offense of conviction." App. Note 1 to USSG § 3C1.1.

17       Samal's document-destruction episode is a textbook example of obstruction of  
 18 justice. The guideline itself defines obstruction to include "destroying" or "directing  
 19 another person to destroy" evidence "that is material to an official investigation." App.  
 20 Note 4(D) to USSG § 3C1.1. Courts regularly apply the obstruction enhancement in  
 21 cases involving the destruction or concealment of incriminating evidence. *See, e.g.*,  
 22 *United States v. Chaudhary*, 451 Fed. Appx. 713, at \*1 (9th Cir. 2011) (affirming  
 23 application of obstruction enhancement where defendant concealed "computers and  
 24 incriminating documents" from discovery by law-enforcement agents); *United States v.*  
 25 *Bowser*, 667 Fed. Appx. 188, 189 (9<sup>th</sup> Cir. 2016) (affirming obstruction enhancement  
 26 where defendant destroyed "material evidence"); *United States v. Shetty*, 130 F.3d 1324,  
 27 1334 (9th Cir. 1997) (concealment of money that served as evidence of tax crimes  
 28 supported application of obstruction enhancement). In short, Samal destroyed

incriminating evidence upon learning about the government's investigation, thereby obstructing justice.

In his objections to the draft PSR, Samal did not dispute that he and others acting at his direction removed forged client letters and other fraudulent documents from hardcopy petition files kept at his offices. *See Ex. C*, ¶ 27. Instead, Samal claimed that the episode was a mere “reassembly” of his companies’ files, purportedly performed at the “behest” of an immigration law firm that had audited his files. *Id.* This argument lacks any factual basis. Indeed, the letter from Samal’s outside counsel, which Samal attached to his objections to the draft PSR, was dated November 3, 2016, which is more than one year after the document-destruction episode. *See Ex. C* (attaching outside counsel’s letter). Nor does the letter direct Samal to remove his employees’ employment agreements or the client letters submitted in support of his petitions. *See id.*

In reality, Samal’s purge of incriminating documents was consistent with his plan to make Puvvala the scapegoat for his crimes. On the heels of his decision to blame Puvvala, Samal directed Tomaszewski and other subordinates to remove incriminating documents from the companies’ hard copy files. Samal then *repeatedly relied* on the absence of those incriminating documents during his interview with law-enforcement agents as purported proof that he did not participate in the fraud scheme, and claimed that Puvvala purportedly concealed the existence of the fraudulent documents from Samal when sending those documents to USCIS. In sum, Samal’s own actions confirm that the purpose of removing incriminating documents from his companies’ hardcopy files was to obstruct the government’s discovery of his role in the criminal offense.

## **SENTENCING RECOMMENDATION**

For the foregoing reasons, and pursuant to the factors set forth in Title 18, United States Code, Section 3553(a), the government recommends a term of imprisonment of 120 months, a fine of \$100,000, and a 3-year term of supervised release.

1           A. Samal's History And Characteristics

2           As Chief Magistrate Judge Tsuchida observed, the record in this case “paint[ed]  
 3 the picture of an individual who has a long and consistent history of a dishonesty and  
 4 theft.” Order, Dkt. 14, 2:7-9. Indeed, for more than a decade, Samal has subsisted  
 5 almost exclusively on lies and deceit. He lied to the FBI in connection with his prior  
 6 federal misdemeanor conviction, performed poorly on probation, and then launched a  
 7 scheme in which he lied compulsively to his clients, his employees, government  
 8 administrators, law-enforcement agents, and the courts in this District.

9           Samal’s greed harmed many lives. Although his H-1B employees were not true  
 10 crime victims in light of their complicity in the false statements to the government, they  
 11 indisputably were exploited by Samal. Samal illegally forced vulnerable H-1B  
 12 employees to take unpaid leave, illegally collected visa fees, and enlisted a host of people  
 13 into his scheme. Samal then blamed others to save himself.

14           Though Samal deserves credit under the Guidelines for accepting responsibility in  
 15 this case, his other behavior during this criminal investigation and prosecution is  
 16 consistent with his history of concealment, dishonesty and minimization. While under  
 17 criminal investigation, Samal moved hundreds of thousands of dollars of forfeitable  
 18 assets into overseas accounts, diverted his employees’ 401K contributions, and  
 19 misappropriated company funds to his personal use. In the days after his arrest, Samal  
 20 coordinated financial misconduct from the Federal Detention Center, culminating in his  
 21 submission of a CJA financial affidavit that materially misstated his assets. *See*  
 22 Response, Dkt. 38.

23           Samal apologizes profusely to this Court in his letter of acceptance. The letter also,  
 24 however, includes Samal’s characteristic minimizations and inaccuracies. Samal portrays  
 25 himself as an ambitious businessman who was driven by his Olympian goals and  
 26 “urgen[t]” demands from clients to take “short cuts.” In truth, Samal’s businesses were  
 27 riddled with fraud and criminality from top to bottom. Forgery, lies and deceit were part  
 28 of the everyday routine at Azimetry and Divensi, and that was the case from the inception

1 of those businesses – businesses which began before Samal’s probation from his prior  
 2 case had even expired.

3 Samal also claims that, when he returned from India in 2018, he expected to be  
 4 arrested, and decided – against the advice of “others” – to return to the United States to  
 5 “confront this indictment.” The evidence shows that this is a convenient fiction. In  
 6 reality, Samal returned to the United States because his spiritual advisor told him it was  
 7 safe, and Samal was shocked and furious when he was arrested.

8 More specifically, following Samal’s arrest, agents searched Samal’s computer  
 9 and found instant messages between Samal and “Babaji,” the spiritual advisor. These  
 10 messages show that in the two months before his decision to return to the United States,  
 11 Samal agonized about whether it was a good idea to do so and sought guidance from his  
 12 spiritual adviser. In response, his spiritual adviser repeatedly advised Samal to “go [to  
 13 the U.S.] my child,” promising that “God will take care that the entire journey is without  
 14 problem” and that “everything will be alright,” “everything will surely be alright.” Samal  
 15 eventually decided to take Babaji’s advice, telling Babaji that he was booking a flight to  
 16 the United States and was “leaving everything to you and Guruji [a spiritual figure].”

17 Samal clearly regretted following Babaji’s advice. After being arrested and  
 18 ordered detained, Samal called his family from the Federal Detention Center and raged  
 19 against his Babaji. As Samal told his family after the detention hearing:

20 I knew Jhummi that I can’t escape. I knew that. Babaji literally killed us. He  
 21 destroyed our family. Babaji ruined it. Totally finished it. He just finished the  
 22 whole family. I had taken advice only from one person in my life, not from  
 23 anyone else. I have trusted him so much. Mark also prevented me.

24 Translation of Telephone Call, Ex. O, 4:22-28.

25 Samal also told his wife to tell Babaji that he “ha[s] spoiled our whole family.  
 26 Our family is ruined because of you.” In an apparent reference to his lawyer’s advice not  
 27 to return to the United States, Samal told his wife and son that the “lawyer clearly  
 28 advised me not to come to that place,” but that Samal followed his Babaji’s advice  
 instead. Translation of Telephone Call, Ex. O., at 4-5.

1 Nothing in Samal's history or characteristics excuses his crimes. He is not the  
 2 product of a difficult background. *See PSR ¶¶ 70.* He was not destitute. *Id. ¶ 71.* In  
 3 sum, Samal history and characteristics weigh strongly in favor of a lengthy term of  
 4 imprisonment.

5       B.     Nature And Circumstances Of The Offense

6       The offense conduct also weighs in favor of a lengthy term of imprisonment. Both  
 7 the mail-fraud offense and the tax offense are crimes of greed. The mail-fraud offense  
 8 was particularly egregious because Samal built an entire organization around the fraud  
 9 and conscripted his subordinates to carry it out at his direction. In other words, the mail-  
 10 fraud scheme was not an isolated instance of financial misconduct in an otherwise lawful  
 11 business operation. Rather, it *was* the driving purpose of Samal's companies, and the  
 12 source of millions of dollars in revenue, between 2012 and 2016.

13       The mail-fraud offense is also serious because it impaired and tarnished the proper  
 14 functioning of the U.S. immigration system, resulting in serious competitive harm to  
 15 other U.S. employers.<sup>10</sup> Because H-1B visas are subject to annual cap, Samal's scheme  
 16 deprived other, deserving, employers of access to H-1B employees. Samal's scheme also  
 17 provided him an unfair advantage over other law-abiding staffing firms, who lacked  
 18 access to a standing "bench" of employees. Finally, Samal's scheme necessarily  
 19 impaired the ability for U.S. citizens with specialized skills to compete for jobs against  
 20 Samal's H-1B employees (who had been forced to accept wages below the prevailing-  
 21 wage standards).

22       Samal's exploitation of H-1B workers is another feature of the offense conduct  
 23 that justifies a lengthy term of imprisonment. As explained above, Samal took advantage  
 24

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25       <sup>10</sup> The defense has claimed that Samal was the victim of a criminal prosecution of "administrative-style fraud that  
 26 was typically not prosecuted in prior presidential administrations." Motion for Release, Dkt. 54, at 13:7-9. This is  
 27 inaccurate. H-1B schemes have been prosecuted in prior presidential administrations. *See, e.g., United States v.*  
*Deguzman*, 133 Fed. Appx. 501 (10th Cir. 2005); *United States v. Kalu*, 791 F.3d 1194 (10th Cir. 2015); *United*  
*States v. Trichy*, 2012 WL 2094409 (6th Cir. 2012); *United v. Ramirez*, 420 F.3d 134 (2d Cir. 2005). Indeed, as  
 28 explained above, the criminal investigation in this case commenced in 2015.

1 of foreign-national employees' obvious desire to immigrate to the United States, by  
 2 forcing them to cover their visa fees and go without pay while benched. At the same time  
 3 that he deprived his employees of money to which they were entitled, Samal used his  
 4 companies' bank accounts to enrich himself, by diverting funds for his investments, his  
 5 house, his car, his travel, and other luxuries.

6 Finally, Samal's obstructive conduct also justifies a lengthy term of imprisonment.  
 7 Samal did not simply destroy documents in an effort to save himself. He forced other  
 8 subordinates to participate in the obstructive conduct, attempted to blame Puvvala, and  
 9 then dissipated assets to protect them from forfeiture.

10       C. Respect For The Rule Of Law, Deterrence, And Incapacitation

11       A lengthy sentence in this case will promote respect for the rule of law, ensure  
 12 adequate deterrence, and incapacitate Samal from continued financial danger to this  
 13 community.

14       *First*, as explained in this memorandum's introduction, the H-1B program and the  
 15 immigration system generally serve critical purposes in promoting this country's  
 16 economic growth and cultural diversity. Samal's crimes fuel cynicism about the entire  
 17 H1-B program. A long sentence can promote respect for the law by showing the public  
 18 that those who abuse the program face stiff punishment.

19       *Second*, a lengthy sentence serves important deterrent purposes. Like any  
 20 government program with a high volume of applicants, the H-1B program cannot  
 21 properly function if criminality escapes serious punishment. USCIS agents and U.S.  
 22 consulate officers cannot verify every statement in every one of the hundreds of  
 23 thousands of petitions filed each year. H-1B fraud is therefore a crime best addressed  
 24 through general deterrence, by imposing serious punishment on the few offenders who do  
 25 get caught. Samal is a worthy candidate for serious punishment because he did not  
 26 simply abuse the H-1B system, but also engaged in other, serious, criminal behavior, as  
 27 described above.

1       ***Third***, Samal deserves to be incapacitated because of his long history of crimes,  
 2 his continued misconduct after his arrest, and the absence of any evidence that he intends  
 3 to reform himself.

4           D.     The Need to Avoid Sentencing Disparity

5 In reviewing the sentences imposed in other “bench-and-switch” prosecutions over the  
 6 last several years, the government has found no consistent trend in the terms of  
 7 imprisonment that have been imposed. Instead, courts appear to have imposed sentences  
 8 of varying length in other cases involving the submission of fraudulent H-1B petitions,  
 9 relying heavily on the specific facts of each case. As a result, the sentence issued in this  
 10 case is unlikely to result in disparity one way or the other.

11         E.     Restitution

12       In the plea agreement, Samal agreed to make restitution to the Internal Revenue  
 13 Service “in a total amount equal to the amounts accounted for but not paid over” in  
 14 connection with Count Two. In an email to the Probation Officer and counsel for the  
 15 government, Samal accepted the PSR’s calculation of the tax loss as \$1,119,687. PSR,  
 16 ¶ 20. Thus, at sentencing, the government will request the imposition of a restitution  
 17 order in the amount of \$1,119,687.

18         F.     Recommended Fine

19       The Probation Office recommended the imposition of a \$10,000 fine. With  
 20 respect, the government submits that a substantially higher fine is warranted in this case,  
 21 and asks that the Court impose a fine of \$100,000. Although the Probation Office relies  
 22 on Samal’s claims about his purported lack of assets, he has not earned the benefit of the  
 23 doubt. Samal’s history of financial misconduct in this case includes the transfer of  
 24 hundreds of thousands of dollars to overseas bank accounts—a fact that he was forced to  
 25 admit only after the government produced bank records that evidenced the transfers. *See*  
 26 Mot. for Release, Dkt. 54, 4:15-18 (conceding that Samal transferred nearly \$200,000 to  
 27 Indian bank accounts in February 2018). Samal also has continued to receive payouts  
 28 from his shareholdings, such as the distribution he received on June 10, 2019.

In short, Samal does not have a history of being candid about his assets, and his financial transfers suggest that he continues to hold substantial assets in overseas account. The government respectfully requests the imposition of a \$100,000 fine in this case.

## **CONCLUSION**

For the foregoing reasons, the Government respectfully requests that the Court sentence Samal to a 120-month term of imprisonment, a fine of \$100,000, and a three-year term of supervised release. The Government also requests that the Court order Samal to pay restitution to the Internal Revenue Service in the amount of \$1,119,687.

DATED this 13th day of September, 2019.

Respectfully submitted,

BRIAN T. MORAN  
United States Attorney

*/s/ Siddharth Velamoor*  

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**SIDDHARTH VELAMOOR**  
**MICHAEL DION**  
Assistant United States Attorneys  
700 Stewart Street, Suite 5220  
Seattle, WA 98101-1271  
Telephone: (206) 553-7970  
Fax: (206) 553-0755  
E-mail:  
Siddharth.Velamoor@usdoj.gov

## **CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via e-mail and/or telefax.

/s/ Kylie Noble  
KYLIE NOBLE  
Legal Assistant  
United States Attorney's Office  
700 Stewart Street, Suite 5220  
Seattle, WA 98101-3903  
Telephone: (206) 553-2520  
Fax: (206) 553-4440  
E-mail: kylie.noble@usdoj.gov